

City of Las Vegas

AGENDA MEMO

PLANNING COMMISSION MEETING DATE: JANUARY 22, 2009

DEPARTMENT: PLANNING AND DEVELOPMENT

**ITEM DESCRIPTION: SUP-32491 - APPLICANT: PASTARIA, LLC - OWNER:
BUFFALO WASHINGTON III, LLC**

**** CONDITIONS ****

STAFF RECOMMENDATION: DENIAL. If Approved, subject to:

Planning and Development

1. Conformance to all minimum requirements under LVMC Title 19.04.010 for the Beer/Wine/Cooler On-Sale Establishment use, including parking requirements, except as amended herein.
2. Conformance to the conditions for Variance (VAR-5531) and Site Development Plan Review (SDR-5393).
3. A Waiver of Title 19.04.010 to allow a distance separation of 58 feet between a Beer/Wine/Cooler On-Sale Establishment and a City Park where 400-feet is the minimum separation required, is hereby approved.
4. This approval shall be void one year from the date of final approval, unless a business license has been issued to conduct the activity, if required, or upon approval of a final inspection. An Extension of Time may be filed for consideration by the City of Las Vegas.
5. All City Code requirements and design standards of all City departments must be satisfied, except as modified herein.

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**** STAFF REPORT ****

PROJECT DESCRIPTION

This is a request for a Special Use Permit for a Beer/Wine/Cooler On-Sale Establishment within an existing restaurant located at 7591 West Washington Avenue, Suite #110 that is located within an existing 16,009 square-foot Shopping Center on a 1.55 acre parcel on the southeast corner of Washington Avenue and Buffalo Drive. The applicant is also requesting a Waiver to allow a distance separation of approximately 58 feet from a City Park where 400 feet is required.

The subject site is adjacent to a regional trail which has a pedestrian underpass that travels under Buffalo Drive and provides a high level of connectivity between the subject site and the adjacent park. One of the closest features in the park is a children's play area. As the proposed use is in such close proximity to a sensitive area of a City Park and fails to meet the minimum Development Standards set forth by the Las Vegas Municipal Code staff recommends denial of the request.

BACKGROUND INFORMATION

<i>Related Relevant City Actions by P&D, Fire, Bldg., etc.</i>	
12/07/94	The City Council approved a Rezoning (Z-0131-94) from N-U (Non-Urban) to C-1 (Limited Commercial) on this site as part of a larger request. The Planning Commission and staff recommended approval.
05/26/98	The City Council approved a Site Development Plan Review [Z-0131-94(3)] for a proposed 131,144 square-foot, 21-building single-story office complex on 11.57 acres to the east of the subject parcel. The Planning Commission and staff recommended approval.
07/13/98	The City Council approved an Extension of Time [Z-0131-94(4)] of the approved Site Development Plan Review [Z-0131-94(3)] for a proposed 131,144 square-foot, 21-building single-story office complex on 11.57 acres to the east of the subject parcel, with no time limit. The Planning Commission and staff recommended approval.
02/22/99	The City Council approved a request for a Special Use Permit (U-0171-98) for a Pawn Shop and Secondhand Dealer, and a Site Development Plan Review [Z-0131-94(5)] for a proposed 135,172 square-foot commercial retail center on 11.74 acres to the east of the subject parcel. The Planning Commission and staff recommended approval.
11/21/04	The Planning Commission approved a Site Development Plan Review (SDR-1046) for a proposed 11,987 square-foot pharmacy with a Waiver of perimeter landscaping requirements on 2.5 acres adjacent to the southeast corner of Buffalo Drive and Washington Avenue. Staff recommended approval.

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12/15/04	The City Council approved a Site Development Plan review (SDR-5393) for a proposed 16,009 square-foot commercial retail center and Waivers of building setbacks, building orientation, and perimeter and foundation landscaping standards on the subject site. The Planning Commission and staff recommended approval.
01/19/05	The City Council granted the appeal from a denial by the Planning Commission of a request for a Variance (VAR-5531) to allow 93 parking spaces where 180 parking spaces were the minimum required in conjunction with the approved 16,009 square-foot commercial retail center on the subject site. Staff had recommended denial.
12/06/06	The City Council accepted this applicant's request to withdraw without prejudice a request for a Special Use Permit (SUP-15347) for a proposed Financial Institution, Specified and a Waiver of the 1,000-foot distance separation requirement from other Financial Institutions, Specified at 7591 West Washington Avenue, Suites #140 and #150. The Planning Commission recommended approval. Staff recommended denial.
<i>Related Building Permits/Business Licenses</i>	
09/23/05	A building permit (#05006739) was issued for a retail building shell at 7591 West Washington Avenue. A final inspection was completed on 06/15/06.
02/15/06	Building permits (#06001226 through #06001229) were issued on speculative suites for Certificate of Completion only at 7591 West Washington Avenue, Suites #120 through #150. Final inspections were completed 06/15/06.
10/30/06	A building permit (#06002750) was issued for a tenant improvement for a Certificate of Occupancy for a restaurant at 7591 West Washington Avenue, Suite #110. A final inspection was completed on 06/23/06.
07/05/06	A business license (#R09-01355) was issued for a restaurant at 7591 West Washington Avenue, Suite #110. This license was marked out of business on 05/27/08.
<i>Pre-Application Meeting</i>	
11/25/08	Special Use Permit submittal requirements were discussed with the applicant.
<i>Neighborhood Meeting</i>	
A neighborhood meeting is not required for this application, nor was one held.	

<i>Field Check</i>	
12/17/08	Staff conducted a field check and found the subject site to be vacant and secured.

<i>Details of Application Request</i>	
<i>Site Area</i>	
Net Acres	1.55

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Surrounding Property	Existing Land Use	Planned Land Use	Existing Zoning
Subject Property	Retail/Commercial	SC (Service Commercial)	C-1 (Limited Commercial)
North	Service Station Convenience Store	SC (Service Commercial)	C-1 (Limited Commercial)
South	Summerlin Parkway	R.O.W. (Right-of-Way)	U (Undeveloped)
East	Pawn Shop, Retail/Commercial	SC (Service Commercial)	C-1 (Limited Commercial)
West	Public Park	PR-OS (Park/Recreation/Open Space)	C-V (Civic)

<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Area Plan		X	N/A
<i>Special Districts/Zones</i>	<i>Yes</i>	<i>No</i>	<i>Compliance</i>
Special Purpose and Overlay Districts		X	N/A
Trails	X		Y*
Rural Preservation Overlay District		X	N/A
Development Impact Notification Assessment		X	N/A
Project of Regional Significance		X	N/A

*A Multi-use Transportation Trail alignment (Bonanza Trail) is existing and maintained on the subject site.

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DEVELOPMENT STANDARDS

Pursuant to Title 19.10, the following parking standards apply:

Parking Requirement							
Use	Gross Floor Area or Number of Units	Required			Provided		Compliance
		Parking Ratio	Parking		Parking		
			Regular	Handi-capped	Regular	Handi-capped	
Financial Institution, Specified	2,292 SF	1:250 SF	10				
General Retail Store	8,667 SF	1:175 SF	50				
Restaurant	2,395 SF	1:50 SF Seating/Waiting + 1 Space per 200 SF Remaining Floor Area	29				
General Personal Service	2,655 SF	2 Spaces per Chair	20 (based on 10 chairs)				
SubTotal	16,008 SF		104	5	89	4	
TOTAL	16,008 SF		109		93		Y*

**A Variance (VAR-5531) was approved to allow 93 parking spaces where 180 was the minimum required at the time of approval. This was based on one of the buildings consisting solely of restaurant uses. Since Condition #2 of VAR-5531 only allows a maximum of two units in the center to be used as restaurants, the remaining units have filled with tenants having less intense parking requirements. Each building contains one restaurant tenant. Therefore, the site is still in compliance with VAR-5531. The project meets Condition #1 of VAR-5531, which allows a maximum of 4,000 square feet of restaurant uses on the site.*

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Waivers		
Request	Requirement	Staff Recommendation
To allow a 58-foot distance separation from a City Park.	Beer/Wine/Cooler On-Sale Establishment may not be located within 400 feet of any church, synagogue, school, child care facility licensed for more than 12 children, or City Park.	Denial

ANALYSIS

This is a request for a Special Use Permit for a Beer/Wine/Cooler On-Sale establishment within an existing restaurant located at 7591 West Washington Avenue, Suite #110 within an existing 16,009 square-foot Shopping Center on a 1.55 acre parcel on the southeast corner of Washington Avenue and Buffalo Drive. The applicant is also requesting a Waiver to allow a distance separation of approximately 58 feet from a City Park where 400 feet is required.

The subject site is adjacent to a regional trail which has a pedestrian underpass that travels under Buffalo Drive and provides a high level of connectivity between the subject site and the adjacent park. One of the closest features in the park is a children's play area. As the proposed use is in such close proximity to a sensitive area of a City Park and fails to meet the minimum Development Standards set forth by the Las Vegas Municipal Code staff recommends denial of the request.

- **Zoning**

This project is located within a C-1 (Limited Commercial) zoning district. This district is intended to provide most retail shopping and personal services, and may be appropriate for mixed use developments. This district should be located on the periphery of residential neighborhoods and should be confined to the intersection of primary and secondary thoroughfares along major retail corridors. The C-1 (Limited Commercial) District is consistent with the SC (Service Commercial) category of the General Plan.

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- **Use**

Title 19.04 defines the Beer/Wine/Cooler On-Sale Establishment Use as follows:

“An establishment whose license to sell alcoholic beverages is limited to the sale of beer, wine and coolers for consumption only in connection with a meal on the premise where the same is sold, and is operated in connection with a restaurant in which 45 or more people maybe be served with meals at any one time at tables or stools.”

Minimum Special Use Permit Requirements for a Beer/Wine/Cooler On-Sale Establishment use within a C-1 (Limited Commercial) zoning district are:

- *1. Except as otherwise provided, no beer/wine/cooler on-sale establishment (hereinafter “establishment”) shall be located within 400 feet of any church, synagogue, school, child care facility licensed for more than 12 children, or City park.
- *2. Except as otherwise provided in Requirement 3 below, the distances referred to in Requirement 1 shall be determined with reference to the shortest distance between two property lines, one being the property line of the proposed establishment which is closest to the existing use to which the measurement pertains, and the other being the property line of that existing use which is closest to the proposed establishment. The distance shall be measured in a straight line without regard to intervening obstacles. For purposes of measurement, the term “property line” refers to property lines of fee interest parcels and does not include the property line of:
 - a. Any leasehold parcel; or
 - b. Any parcel which lacks access to a public street or has no area for on-site parking and which has been created so as to avoid the distance limitation described in Requirement 1.
- *3. In the case of an establishment proposed to be located on a parcel of at least 80 acres in size, the minimum distances referred to in Requirement 1 shall be measured in a straight line:
 - a. From the nearest property line of the existing use to the nearest portion of the structure in which the establishment will be located, without regard to intervening obstacles; or

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- b. In the case of a proposed establishment which will be located within a shopping center or other multiple-tenant structure, from the nearest property line of the existing use to the nearest property line of a leasehold or occupancy parcel in which the establishment will be located, without regard to intervening obstacles.
- 4. When considering a Special Use Permit application for an establishment which also requires a waiver of the distance limitation in Requirement 1, the Planning Commission shall take into consideration the distance policy and shall, as part of its recommendation to the City Council, state whether the distance requirement should be waived and the reasons in support of the decision.
- 5. The minimum distance requirements in Requirement 1 do not apply to:
 - a. An establishment which has a nonrestricted gaming license in connection with a hotel having 200 or more guest rooms on or before July 1, 1992 or in connection with a resort hotel having in excess of 200 guest rooms after July 1, 1992; or
 - b. A proposed establishment having more than 50,000 square feet of retail floor space.
- *6. All businesses which sell alcoholic beverages shall conform to the provisions of LVMC Chapter 6.50.

The proposed use fails to comply with minimum Special Use Permit requirement number 1. The restaurant use is located in a suite within a commercial subdivision that is within 58 feet of a City Park to the north of the subject site. The applicant has requested a Waiver of this requirement and staff is recommending denial of that request.

- **Floor Plan**

The existing 2,395 square-foot restaurant has a 1,428 square-foot dining room area with 88 indoor seats and 12 outdoor seats depicted. There is a remaining 967 square feet of kitchen area and space devoted to storage, office and restroom use. Pursuant to Title 6.50 and Title 19.20 45 seats are required for a Beer/Wine/Cooler On-Sale use and the establishment meets that requirement.

FINDINGS

In order to approve a Special Use Permit application, per Title 19.18.060 the Planning Commission and City Council must affirm the following:

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1. **“The proposed land use can be conducted in a manner that is harmonious and compatible with existing surrounding land uses, and with future surrounding land uses as projected by the General Plan.”**

The applicant has requested a Waiver of the Title 19.04 standard to allow a 58-foot distance separation from a City Park where 400 feet are required. The subject site is adjacent to a regional trail which has a pedestrian underpass that travels under Buffalo Drive and provides a high level of connectivity between the subject site and the adjacent park. One of the closest features within the park is a children’s play area. Staff finds that the proposed use fails to meet Title 19.04 standards and is too intense for the subject location.

2. **“The subject site is physically suitable for the type and intensity of land use proposed.”**

The subject site is physically suitable for the type of land use proposed, however it is not suitable for the intensity of the land use being proposed.

3. **“Street or highway facilities providing access to the property are or will be adequate in size to meet the requirements of the proposed use.”**

The subject site is located within a commercial center on the southeast corner of Buffalo Drive, a 100-foot Primary Arterial, and Washington Avenue, an 80-foot Secondary Collector Street, as designated by the Master Plan of Streets and Highways. Both roadways are adequate to meet the traffic needs of this use.

4. **“Approval of the Special Use Permit at the site in question will not be inconsistent with or compromise the public health, safety, and welfare or the overall objectives of the General Plan.”**

The subject establishment is subject to State of Nevada and City of Las Vegas inspections and would not compromise public health or safety.

5. **The use meets all of the applicable conditions per Title 19.04.**

The subject site is within 58 feet from a City Park, therefore failing to comply with the Title 19.04 400-foot distance separation requirement for a Beer/Wine/Cooler On-Sale Establishment.

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NEIGHBORHOOD ASSOCIATIONS NOTIFIED 10

ASSEMBLY DISTRICT 34

SENATE DISTRICT 3

NOTICES MAILED 1,047

APPROVALS 0

PROTESTS 2